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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/005,909
Filing Date: December 07, 2001
Appellant(s): THOMAS ET AL.

Allan M. Lowe
Reg. No. 19, 641
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 19, 2005 appealing from the
Office action mailed June 9, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

This appeal involves claims 1-4, 7-12, 15-18, 20-22, and 24-25.

Claims 5, 6, 13, 14, 19, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner.

- A. The rejection of claim 24 under 35 U.S.C. 112, first paragraph.
- B. The rejections of claims 5, 13, and 19 under 35 U.S.C. 102 (e).
- C. The rejections of claims 6 and 14 under 35 U.S.C. 103 (a).
- D. The rejection of claim 23 under 35 U.S.C. 103 (a).

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,614,885	Polcyn	8-1998
5,930,755	Cecys	1-1997

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

- A. Claim 25 is rejected under 35 U.S.C. 112, first paragraph, as stated in the Final Office Action mailed June 9, 2005.

B. Claims 1-4, 7-12, 15-18, and 20-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Polcyn (U.S. Patent 6,614,885), as stated in the Final Office Action mailed June 9, 2005.

C. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Polcyn, in view of Cecys (U.S. Patent 5,930,755), as stated in the Final Office Action mailed June 9, 2005.

(10) Response to Argument

A. Rejection of claim 25 under 35 U.S.C. 112, first paragraph

Applicant's arguments, see pages 7-8 of Appeal Brief, filed September 19, 2005, with respect to claim 24 have been fully considered and are persuasive. The rejection of claim 24 under 35 U.S.C. 112, first paragraph has been withdrawn.

In the Final Office action mailed June 9, 2005, the Examiner interpreted the phrase "are from" of claim 24 to mean that the synthesized speech utterances were constructed from an audio store of actual voice utterances of the operator. It was the Examiner's understanding that "are from" meant that a store of prerecorded audio examples of the actual voice of the operator (stored in audio server 17) would be accessed and the prerecorded examples of actual voice utterances of the operator would be played back to the caller. In this sense, the "synthesized speech utterances"

would not be speech generated by a text-to-speech converter, but a concatenation of prerecorded audio clips of the operator's actual voice utterances.

However, as described in the Applicant's arguments, "are from" in reference to claim 24 simply refers to the fact that to respond to a caller, the operator speaks (an actual voice utterance of the operator) and the operators actual voice utterance is then recognized by a speech recognizer to be converted to text, then passed to a text-to-speech converter to be presented to the caller. This is substantially different than the Examiner's original interpretation, because the "actual voice utterances of the operator" are not prerecorded clips of the operator's actual voice utterances, but the utterances of operator (spoken into headset unit 27) that are sent to speech recognizer 30 for conversion to text.

Given this interpretation of claim 24, the Examiner agrees that there is sufficient written description for the subject matter of claim 24.

Applicant's arguments regarding claim 25, however, are not persuasive. In regard to claim 25, the Applicant's arguments indicate that "are from" in this case does refer to a recorded audio source. The Applicant has equated "scripts" as described in the specification as being the recorded audio referred to in claim 25 (see page 9, 1st paragraph of Appeal Brief). This is not persuasive because there is no indication in the specification that the "scripts" described in the specification are anything but a storage of text which can be displayed on the operator's screen. There is no indication

whatsoever that "scripts" are recorded audio, as indicated in the Applicant's Appeal Brief.

Page 4, 2nd paragraph states "output text, provided by the interaction manager 13 from the current script" is converted to synthesized voice output. Page 4, 3rd paragraph states the operator can "pull up scripts from a store 28 and display them on the screen of the workstation 26 for use in conversing with the caller". If the scripts were recorded audio, as alleged by the Applicant, the Examiner is at a loss to understand how displaying the recorded audio would help the operator converse with the caller. A display of a waveform will not aid an operator in coming up with responses to a caller. Page 6, line 4 also indicates that scripts are "called up onto the workstation display from store 28".

Therefore, it is the Examiner's position that "scripts" as used in this application refers to text documents that the operator can view on the workstation 26 to aid in responding to the caller. Accordingly, absent any description in the specification of scripts being equivalent to "recorded audio", the rejection under 35 U.S.C. 112, first paragraph is maintained.

B. Rejection of claims 1-4, 7-12, 15-18, and 20-22 under 35 U.S.C. 102 (e)

Applicant's arguments with respect to claims 1 are not persuasive. The Applicant has incorrectly alleged that inherency was relied upon in the rejection of claim 1. The Examiner maintains that Polcyn meets the requirements of claim 1, thus the arguments regarding inherency are considered moot.

The Examiner's interpretation of the requirements of claim 1 hinges on the claimed "masking arrangement" that the Applicant has alleged is not met by Polcyn. The Applicant's allegations appear to rely upon the fact that Polcyn does not explicitly state (using the same wording as the Applicant) that a synthesized voice "masks" from the caller that the caller is talking to a human operator. To clarify, the term "synthesized voice" as used in claim 1 is not limited to only the output voice of a text-to-speech converter, otherwise claim 2 would not further require that the masking arrangement included a text-to-speech converter. Therefore, any "arrangement" that uses a voice that is not the actual utterances of the operator (i.e. the operator speaking directly with the caller as in the described prior art systems) "masks" from the caller the fact that they are talking to a human operator through a synthesized voice (i.e. any voice that is not directly from a human). It is the Examiner's opinion that any arrangement that allows for the operator to provide input (through voice commands, keyboard commands, etc.) that is then presented to a caller in a manner that is not the operator speaking directly with the caller is a "masking arrangement" as claimed. This interpretation is consistent with the Applicant's broad definition of a "verbal interaction" including typing messages using a keyboard, selecting scripts, or by voice input to a speech recognizer (see page 6, lines 1-7 of the specification and page 5, final line to page 6, line 4 of Appeal Brief).

The Examiner's interpretation of Polcyn is as follows:

Initially, a caller is connected with a call director (Fig. 1, 102N) which conducts a dialogue with the caller like prior art call directors (column 3, lines 54-57, this is equivalent to the claimed "interactive voice response unit"). The dialog is

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predetermined (column 4, lines 52-55). If a response of the caller is not understood, the caller's response is first passed to a large vocabulary speech recognition unit 30 (column 4, lines 1-18), and if the large vocabulary speech recognition unit 30 cannot recognize the caller's response, the response would be passed to a live human operator (column 4, lines 36-40). The passing of the caller's response to the live operator is the first portion of the "verbal interaction" between the caller and the operator. If the operator cannot understand the caller's response, the operator **passes unique messages to the call director 102-N, including messages instructing the call director to initiate additional dialog with the caller** (column 4, lines 48-55). The act of the live human operator instructing the call director 102-N to prompt the caller with additional dialog completes the act of a "verbal interaction" as broadly defined in view of the present Application. Furthermore, a dialog performed by a call director 102-N is obviously not a real human conducting a dialog, and thus is a "synthesized utterance". While Polcyn also describes the option of passing control of the call to the operator so the operator and caller can speak directly (as in the Applicant's described prior art systems), this is simply a possible option. This option does not obviate the fact that the act of the operator controlling the call director 102-N to conduct additional dialog with the caller in response to a caller's utterance completes a "verbal interaction" whereby the verbal interaction is through a synthesized voice (the voice output by call director 102-N). This action "masks" from the caller that the caller is talking to a human operator. In fact, Polcyn explicitly states that allowing the operator to control the call director 102-N is for the express purpose of providing assistance to the caller **without**

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any indication to the caller that an operator is assisting in placing a call (column 5, lines 39-50).

Therefore, it is the opinion of the Examiner that Polcyn meets all the requirements of claim 1 and the rejection is maintained.

With regard to claim 8, as described above, Polcyn meets the requirements of claim 8, thus the arguments regarding inherency are considered moot. The Examiner maintains that the system disclosed by Polcyn acts to mask from the caller that the caller is talking to a human operator. Accordingly, the rejection to claim 8 is maintained.

With regard to claim 9, as described above, Polcyn meets the requirements of claim 9. The Examiner maintains that the system disclosed by Polcyn acts to mask from the caller that the caller is talking to a human operator. Accordingly, the rejection to claim 9 is maintained.

With regard to claim 22, as described above, Polcyn meets the requirements of claim 22. The Examiner maintains that the system disclosed by Polcyn acts to mask from the caller that the caller is talking to a human operator. Accordingly, the rejection to claim 22 is maintained.

Since Polcyn meets the requirements of independent claims 1, 8, 9, and 22, accordingly, the rejections of claims 2-4, 7, 9-12, 15-18, 20, and 21 under 35 U.S.C. 102 (e) are maintained.

C. Rejection of claim 24 and 25 under 35 U.S.C. 103 (a)

Since Polcyn has been shown to meet the requirements of claim 22 and absent any other arguments regarding the rejections claims 24 and 25, the rejections of claims 24 and 25 under 35 U.S.C. 103 (a) are maintained.

D. Rejections of claims 5, 13, and 19 under 35 U.S.C. 102 (e) are withdrawn.

Applicant's arguments, see page 12, final paragraph to page 14, line 7 of Appeal Brief, with respect to claim 5 have been fully considered and are persuasive.

Claim 5 requires a text response means that generates text messages that are passed to a text-to-speech converter for output to the caller to include a speech recognizer for receiving voice input from the operator and generating text messages. The Examiner had relied on column 6, lines 31-34 to meet this requirement. However, upon further consideration, while Polcyn may disclose that the operator can input commands through the agent telephone 14 to control the call director 102-N, this does not necessarily mean that the operators voice input are *converted to text messages* that are then passed to a *text-to-speech converter*. Since Polcyn does not meet this requirement, the rejection of claim 5 is withdrawn.

These limitations are required by claims 13 and 19 and thus the rejections of claims 13 and 19 are also withdrawn.

Additionally, claims 5, 13, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

E. Rejections of claims 6 and 14 under 35 U.S.C. 103 (a) are withdrawn.

Claims 6 and 14 depend from claims 5 and 13, respectively; therefore, the rejections of claims 6 and 14 are withdrawn.

Claims 6 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

F. Rejection of claim 23 under 35 U.S.C. 103 (a) is withdrawn.

Claim 23 requires a first predetermined synthesized message, a second synthesized message that is an operator's speech utterances (thereby necessitating a speech recognizer) that is synthesized and transmitted to the caller and a third predetermined synthesized message. Absent any evidence of record of transmitting the claimed "second predetermined message" that appears to the caller to be from the same source as the first predetermined synthesized message and the synthesized speech utterances, the rejection is withdrawn.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

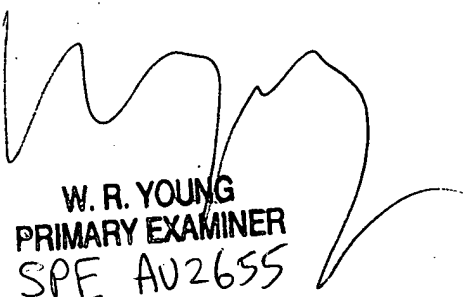
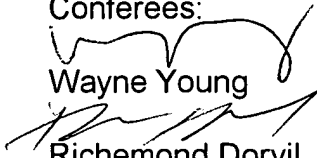
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